



SENATOR RUNNER'S WEEK IN REVIEW

A WEEKLY REVIEW THAT WILL KEEP YOU INFORMED AND UP-TO-DATE



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Weakening the "Three Strikes and You're Out" Law

The Legislature is again attempting to thwart the will of the people by weakening California's "Three Strikes and You're Out". "Three Strikes", passed by the voters in 1994, has been very effective by reducing crime and keeping serial violent felons in prison for life. Most recently, in 2004, the voters rejected Proposition 66 which was also designed to weaken the "Three Strikes" law.

Unfortunately, this Legislature is at it again. The Senate Public Safety Committee recently approved legislation which would alter California's "Three Strikes" law, by limiting third strikes to the state's narrowly defined list of serious or violent offenses that excludes many serious crimes. This legislation could lead to thousands of repeat offenders being potentially released – all of whom have been convicted of two prior serious and/or violent felonies. Many of these felons have extensive criminal histories.

The California District Attorneys Association, California Police Chiefs Association, and Crime Victims United, and the Sacramento and Ventura County District Attorneys, opposed the measure. Opponents noted that only 4.5% of the entire prison population are third strikers. District attorneys testified that those who will benefit from this law are lifetime criminals, and noted that dangerous felons, including sex offenders who pose a grave threat to the citizens of this state could be released.

Thousands of Career Criminals Could be Eligible for Release

Judges and prosecutors currently have the discretion to avoid third strike charges in the interest of justice. While there is a great deal of rhetoric about minor offenders being wrongly prosecuted as third strikers, the evidence does not bear this out. This legislation could open the doors of California's prisons, and allow many inmates previously convicted under the "Three Strikes" law eligible for re-sentencing. There are about 7,800 third strikers serving 25-years-to-life sentences. Over 4,400 of them would appear to be eligible to petition for re-sentencing and/or release under this proposed legislation.

This Legislation Would Eliminate Many Serious Third Strike Sex Offenses

This legislation would limit third strikes to the state's narrowly defined lists of serious or violent

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offenses. However, these lists do not include many truly dangerous, violent or potentially violent felonies. Under the "Three Strikes" law, a career criminal previously convicted of two serious or violent crimes (as defined in Penal Code Section 667.5 and 1192.7) is subject to a third strike upon the commission of any subsequent felony. If passed, this proposal would eliminate the ability to charge these offenders with third strikes for many felonies which the public would consider serious or violent, including some of the following sex offenses:

- Sexual exploitation of a minor
- Abduction for prostitution
- Child abduction
- Making child porn for profit
- Solicitation for rape and child molestation
- Human trafficking
- Solicitation to commit rape

Other serious or violent felonies excluded from third strike application:

- Felon in possession of firearm;
- Solicitation to commit murder, robbery or arson;
- Carrying a destructive device on a common carrier (i.e. airplane);
- Child abuse likely to cause great bodily injury;
- Possession of firearm on school grounds;
- Possession or transportation of explosives;
- Taking a hostage to prevent arrest or act as a shield;
- Most drug offenses, even those involving manufacture and/or sale of two pound or more of heroin, cocaine, or two gallons of liquid methamphetamine;
- Most assault and battery;
- Felony DUI.

NOTE: This is a partial list.

Third strike offenders currently in state prison based upon conviction of one of these felonies would become eligible for re-sentencing or release under this legislation.

I am committed to protecting "Three Strikes" law. It is critical that California does not go backwards and allow these violent felons free. Instead, we should look for ways to improve and strengthen our laws to keep our communities safe.

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